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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,677	01/04/2002	Stephen Brian Falder	16644/09003CIP	9699
27530	7590	11/16/2005	EXAMINER	
NELSON MULLINS RILEY & SCARBOROUGH, LLP 1320 MAIN STREET, 17TH FLOOR COLUMBIA, SC 29201			PRYOR, ALTON NATHANIEL	
		ART UNIT	PAPER NUMBER	
		1616		
DATE MAILED: 11/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/039,677	FALDER ET AL.
	Examiner	Art Unit
	Alton N. Pryor	1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 August 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,46-54,56,58,59,61,62,70,71,78,82-100 and 103 is/are pending in the application.
- 4a) Of the above claim(s) 49,53,86-91,93-98,100 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,46-48,50-52,54,56,58,59,61,62,70,71,78,82-85,92,99 and 103 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

I. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. See below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,46-48,50-52,54,56,58,59,61,62,70,71,78,82-85,92,99,103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson on record in view of Dorothy et al (GB 2338651; 12/29/1999). Jackson teaches a bacteriologically disinfectant (cleaning agent) composition comprising 0.02-0.2% quaternary compounds such as cetylpyrdinium chloride (first compound - hydrophobic with polar nature), or alkyldimethylbenzylammonium (benzalkonium) chlorides (first compound - hydrophobic with polar nature), plus 10% monohydric alcohols such as isopropyl alcohol plus polyhydric alcohols such as polyethylene glycol (second compound - hydrophilic compound or C12-C20 surfactant) plus 0.01-0.15 % phenols such as 3-methyl-4-chlorophenol (first antimicrobial agent). Jackson teaches a method of applying the disinfectant composition to surfaces for the purpose of killing bacteria. See abstract, page 4 lines 7-24, page 5 line 11 – page 6 line 5, claims 1-7. Jackson teaches all that is recited in claims except for the composition comprising 1 to 4% polyethylene glycol and benzenemethanaminium N-dodecyl-N,N-dimethyl chloride as alkyldimethylbenzylammonium (benzalkonium) chloride; a formulation comprising 0.5-

2% of the instant antimicrobial composition; and the instant method of adding and mixing ingredients to manufacture the antimicrobial composition. Jackson also does not teach the instant composition comprising a polydimethylsiloxane. However, Dorothy teaches an microbicidal (antibacterial) composition comprising polydimethylsiloxane. See abstract, claims. Jackson teaches that the composition is applied to contaminated surfaces to control bacteria growth. It would have been obvious to one having ordinary skill in the art to modify the invention taught by Jackson to include the polydimethylsiloxane taught by Dorothy. One having ordinary skill in the art would have been motivated to do this in order to enhance the activity of the composition. It would have been obvious to further modify the composition taught by Jackson to include Benzenemethanaminium N-dodecyl-N,N-dimethyl chloride. One would have been motivated to do this since Benzenemethanaminium N-dodecyl-N,N-dimethyl chloride is a species in the alkyldimethylbenzylammonium (benzalkonium) chloride genus and since Jackson discloses other compounds, which are structurally similar to benzenemethanaminium N-dodecyl-N,N-dimethyl chloride such as dodecyltrimethylammonium bromide. For these reason, it would have been obvious to one having ordinary skill in the art to employ benzenemethanaminium N-dodecyl-N,N-dimethyl chloride at the time of the invention because structurally similar compounds have similar chemical and physical properties and thereof would have been expected to show similar activity. It would have been obvious to one having ordinary skill in the art to determine the optimum amount of polyethylene glycol to be used in the antimicrobial composition and the optimum amount of antimicrobial composition to be used in a

formulation. One would have been motivated to do this in order to develop the most effective composition for disinfecting a surface. In a method of preparation, the simple act of adding and mixing ingredients is well known and therefore unpatentable.

IV. Election Status

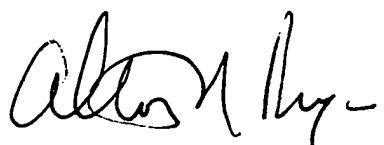
The elected composition comprising benzenethanaminium N-dodecyl-N,N-dimethyl chloride, polydimethylhydroxysiloxane, 2-phenyl phenol, and isopropyl alcohol is allowable.

Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 571-272-0621. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alton Pryor
Primary Examiner
AU 1616